

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

MONDAY, THE 9TH DAY OF NOVEMBER 2015/18TH KARTHIKA, 1937

WP(C) .No. 26821 of 2015 (C)

PETITIONER(S) :

KEERTHI HARISHANKAR JOSHI, AGED 57 YEARS,
S/O.HARISHANKAR, RESIDING AT T.K 01/248,
NEAR PARAKANDY SCHOOL, KANNUR 1.

BY ADVS.SRI.K.R.AVINASH (KUNNATH)
SRI.ABDUL RAOOF PALLIPATH
SRI.C.H.ABDUL RASAC

RESPONDENT(S) :

1. THE STATE OF KERALA,
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF REVENUE,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM 695 005.

2. THE DISTRICT COLLECTOR,
KANNUR DISTRICT-670 001.

3. THE TAHSILDAR,
KANNUR 670 001.

BY ADV. GOVERNMENT PLEADER SRI. T.J. MICHAEL

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY
HEARD ON 09-11-2015, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

WP(C) .No. 26821 of 2015 (C)

APPENDIX

PETITIONER(S) ' EXHIBITS

EXHIBIT P1. COPY OF THE LEASE RENT RECEIPT DATED 31.3.95.

EXHIBIT P2. COPY OF THE APPLICATION SUBMITTED BEFORE THE
1ST RESPONDENT DATED 16.9.11.

EXHIBIT P3. COPY OF THE FORWARDING LETTER DATED 7.1.11.

EXHIBIT P4. COPY OF THE MEDICAL CERTIFICATE ISSUED BY
AMRITA INSTITUTE OF MEDICAL SCIENCE DATED 10.11.14.

RESPONDENT(S) ' EXHIBITS

K. HARILAL, J.

W.P. (C) No.26821 of 2015

Dated this the 9th day of November, 2015

JUDGMENT

According to the petitioner, his grandfather late Pranjeevan Kanji was in possession and enjoyment of 5 cents of land in Re.Sy.No.114/09 of Kannur-2 Amsom, Chaladu Desom In Kannur District, as per the leasehold right obtained more than 15 years ago and after the death of his predecessor, he is in possession and enjoyment of the said land, for ingress and egress to his property which he got by partition. Since the said property is absolutely necessary for the beneficial enjoyment of his property, wherein his residential building is situated, he is entitled to get it assigned under the Land Assignment Act. Even though the

petitioner has submitted Ext.P2 before the 1st respondent, which is now pending before the 2nd respondent, the 2nd respondent has not taken any action so far.

2. Heard the learned counsel for the petitioner and the learned Government Pleader.

3. The learned Government Pleader filed a counter affidavit stating that an amount of ₹4,54,375/-, being the arrear amount of lease rent up to 2006-07, has not been remitted and notice was issued to the petitioner in this regard. The amount is calculated based on the land value at the relevant point of time. It is also submitted that if the entire arrear is paid, as required by the 2nd respondent, his application can be considered on merits.

4. The petitioner submits that the amount quantified by the 2nd respondent is also exorbitant and unreasonable in view of the fact that ₹225/- was the yearly rent of the said leasehold land. Therefore, an amount of ₹4,54,375/- can never be accrued as arrear, at any view of the matter. Going by the submissions

made at the Bar, in support of the rival pleas, I find that the quantum of arrear is also in dispute.

5. Having regard to the matter in dispute and the submissions made at the Bar, it is ordered that the 2nd respondent shall re-examine the correctness of the arrear that quantified above and pass an order quantifying the actual arrear to be remitted by the petitioner, within a period of three months from the date of receipt of a copy of this judgment and thereafter, if the petitioner remits that amount, Ext.P2 application shall be considered within a period of three months from the date of payment of arrear and final order be passed accordingly. It is made clear that all coercive steps shall be kept in abeyance, till the expiry of the time granted for remittance of arrear, to be re-determined and quantified by the 2nd respondent.

This writ petition is disposed of accordingly.

Sd/-

(K. HARILAL, JUDGE)

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//true copy// P.S. to Judge